

United States Senate

April 12, 2010

Mr. Victor M. Mendez, Administrator
Federal Highway Administration
1200 New Jersey Avenue, S.E.
Washington, DC 20590-0001

Dear Administrator Mendez:

Thank you again for participating in the Transportation Summit I hosted in Lincoln, Nebraska, on March 30, 2010. The feedback I have received from not only the panel participants, but also those in attendance and those who watched both online and on television, indicates that this was an excellent exchange of information.

From our previous correspondence and meetings, you had already been made aware of the tensions existing between many Local Public Agencies (LPAs) in my home state of Nebraska and the Federal Highway Administration (FHWA) Nebraska Division Office. Your willingness to participate in the summit demonstrates that you take your position seriously, and hearing firsthand from those who are being affected sent a clear signal that the FHWA is willing to be an able partner in resolving the issues currently delaying Nebraska projects.

Rest assured, Nebraskans are not asking for special treatment. In fact, I believe all the presenters at the summit recognize and accept that federal rules and regulations must be followed; they are simply asking how these rules and regulations could be met and satisfied in the most expeditious manner possible.

I believe the opening presentation by Roger Figard, Engineer for the City of Lincoln, identified the most critical issue being experienced in Nebraska – a lack of trust between the FHWA, the Nebraska Department of Roads (NDOR), and the LPAs. As Mr. Figard stated so well, “Projects get accomplished if the parties involved trust each other. They do not move if trust does not exist.”

I am encouraged by your assertion that the FHWA and the State of Nebraska are equal partners in arriving at solutions to the problems presented. The LPAs have indicated to me this will be a big change in how the FHWA Nebraska Division Office has been operating to date. It has been reported at meetings with agencies and other groups that FHWA Nebraska Division Administrator Joseph Werning has indicated, “There is a new sheriff in town. Rules will be followed, or federal funds will be lost.”

Therefore, your commitment that the communication between FHWA and the LPAs through NDOR will improve, no matter what had occurred previously, was warmly received. From your other comments and your editorial in the *Lincoln Journal Star*, I believe you also intend these communications to be proactive, rather than punitive. This, too, is a welcome turn of events.

Although all who attended thought the summit was a productive event, we must now move to implement improvements to the existing process as soon as possible so that momentum is not lost. Building on some of the practices used in advancing projects funded by the American Recovery and Reinvestment Act (ARRA), and based on your closing comments, the following are some actions which I believe could take effect immediately:

1. Reconnect all parties to improve communication and relationships based on an equal partnership concept. This step could also be part of a larger scale effort by FHWA to reach out to local entities through the “Road Shows” suggested by Mayor Vern Powers of Hastings.
2. Institute concurrent reviews of projects by FHWA, NDOR and LPAs at various stages of the projects, with emphasis on agreement to finding solutions to problems, not just identifying them. This process was used to some extent in the accomplishment of the ARRA projects in Nebraska.

3. Create streamlined project delivery processes where unnecessary environmental investigation and expenditures are not required (wetland evaluations for traffic signal head replacements, milling and resurfacing jobs in urban areas, farm land evaluations for urbanized areas, and airport clearance coordination when new light standards being installed are lower than those being replaced).
4. Identify and adopt those practices used in other states which are more efficiently and effectively accomplishing compliance with federal rules and regulations.
5. Honor prior FHWA approvals, particularly concerning previously accepted environmental documents and consultant selection.
6. Allow consultants who have provided design services on projects to also perform construction inspections, if the clients so desire.
7. Revise information being required in Requests for Proposal (RFPs) for consultants, as the detail now being demanded by Nebraska FHWA is too restrictive. Enclosed is an example of an RFP for 1600 feet of sidewalk as part of the Safe Walk to School Program; an additional RFP will be required for construction inspection. As you will note, there is no doubt the information required in this instance will cost more than the construction itself.
8. Continue efforts to improve the oversight process involving LPAs in a manner clear to all involved.

As you are also aware, the revised LPA Manual is now in effect in Nebraska; and I believe the following changes could be made to progress projects:

- A. Recertify NDOR and LPAs on environmental and design issues.
- B. Rescind Nebraska FHWA-imposed restriction on consultant usage for multiple phases of projects.
- C. Require financial plans at initiation of construction, as indicated in FHWA guidance documents, rather than prior to consideration of environmental documents, preparation of design plans, or acquisition of rights-of-way. Also clarify how FHWA determines when financial plans are required for projects between \$100 million and \$500 million; as the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) indicates these are at the discretion of the Secretary of Transportation.
- D. Recognize that usable segments of projects can be constructed without having to show how the funding will be accomplished for all the remaining segments within the logical termini of the environmental documents.
- E. Recognize current FHWA policy allowing NDOR and LPAs to use their own funds for consultant services without jeopardizing federal funds in other aspects of projects.

There may also be other items which can be implemented quickly. In order to help identify such items, I suggest that a small task force be formed to include the FHWA, NDOR, and a representative of each of the groups who made a presentation at the summit. This group could be assembled quickly, as potential members have demonstrated a willingness to find solutions. This same group could also be charged with the preparation of a Memorandum of Understanding between all parties to help eliminate some of the confusion which now exists.

Administrator Mendez, I believe everyone involved accepts the fact that there are necessary rules and regulations which must be followed to protect and serve the public. It is how everyone works together to make this happen that has been the issue in Nebraska. I believe the summit we held is the first step toward finding solutions which will satisfy everyone involved. With your leadership at the FHWA, and the cooperation of the NDOR and the LPAs, I believe a resolution can and will be accomplished. In addition, I recognize that some of these issues and others

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creating unwarranted delays may require legislative changes and would welcome the opportunity to work with FHWA to address such issues in the future.

Thank you for your attention to these matters. I look forward to your response and your suggestions.

Sincerely,



E. Benjamin Nelson
United States Senator

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Enclosure

cc: The Honorable Deb Fischer, Chair, Nebraska Legislature Transportation and Telecommunications Committee
The Honorable Vern Powers, Mayor of Hastings
The Honorable Stan Clouse, Mayor of Kearney
The Honorable Chris Beutler, Mayor of Lincoln
Tim Nelson, Otoe County Board of Commissioners
John Winkler, Manager, Papio-Missouri River Natural Resource District
Joseph Werning, Nebraska Division Administrator, Federal Highway Administration
Monty Fredrickson, Director, Nebraska Department of Roads
Dawn Miller, Highway Superintendent, Adams County
Chris Jacobsen, Highway Superintendent, Custer County
Roger Figard, City Engineer, City of Lincoln
Robert Stubbe, Public Works Director, City of Omaha
Larry Dix, Executive Director, Nebraska Association of County Officials
Annie Thomas, President, League of Nebraska Municipalities
L. Lynn Rex, Executive Director, League of Nebraska Municipalities
Lash Chaffin, Utilities Section Director, League of Nebraska Municipalities
Paul Mullen, Executive Director, Metropolitan Area Planning Agency
Jerrod Haberman, Executive Director, Panhandle Area Development District
Kyle Anderson, President & National Director, American Council of Engineering Companies of Nebraska
Matt Tondl, Past President, American Council of Engineering Companies of Nebraska
Jackie McCullough, Executive Director, American Council of Engineering Companies of Nebraska

REQUEST FOR ENGINEERING SERVICES
for
Pilger Safe Ramps & Routes
(State Project No. SRTS-84(2), State Control Number 32077)
R1 March 3, 2010

It is the intent of the Village of Pilger, to contract with a professional consulting firm, to perform environmental studies and preparation of construction plans and specifications for installing, repairing, or replacing approximately 1650 feet of sidewalk; placing seventeen (17) ramps at key street corners; erecting five (5) school advance warning signs; and purchasing two 6 foot bike racks. Completion of preliminary engineering services will occur with the bid opening.

The contract for Preliminary Engineering Services will be accomplished in two (2) phases:

- I. Preliminary Design and Environmental Assessment
- II. Preparation of Construction Plans & Specifications

The Village of Pilger will reserve the right to terminate this agreement at the completion of Phase I or at any time prior to completion of the work by written notice to the Consultant.

The following work tasks describe the preliminary engineering services to be provided, if needed for this project, but are not necessarily limited to:

PHASE I. PRELIMINARY DESIGN AND ENVIRONMENTAL ASSESSMENT

1. Preliminary Field Surveys The Consultant will provide the preliminary field survey, including alignments, levels, cross sections, and any special surveys required for the preparation of the preliminary plans.
2. G.I.S. Data layers will be provided to assist in completing the Preliminary Design and Environmental Assessment along the proposed sidewalk and ramp route. The layers provided will be:
 - 6" Black and White Aerial Photography
 - 2' Contour Line Intervals
3. Review such available reports, plans, maps and other data relative to the project.
4. Meet with reviewing agencies for the purpose of evaluating alternatives and alignment designs and selecting a design for preliminary plans.
5. Public Hearing. Conduct a public hearing for the purpose of gathering input and presenting information on the project improvements in accordance with the Nebraska Department of Roads and Federal Highway Administration requirements.
6. Utility Coordination. Provide copies of the topographic survey base sheets to all utility companies which serve the project area, for incorporation of their facilities into the plans.
7. Geotechnical Investigation. A subsoil investigation that defines the general soil conditions underlying the area will be performed and an engineering report will be provided. Association with a geotechnical firm for the purpose of this RFP is at the consultant's discretion.
8. Environmental. Prepare and submit all necessary documents to meet and be in compliance with the National Environmental Policies Act (NEPA).
9. Preliminary Design. Sufficient preliminary design shall be performed to show the plan, elevation, typical section of the proposed sidewalk, the tentative grade lines, utility conflicts, limits of construction and any other relevant impacts.

10. Cost Estimates. Preliminary cost estimates for the proposed improvement shall be prepared and furnished. Approximate quantities shall be taken from the preliminary plans.
11. Right-of-Way. Prepare a tract drawing showing all affected tracts.
12. Reports. A brief narrative report shall be furnished which will include the following:
 - a. Description of the proposed improvements
 - b. Technical memos of all meetings with affected parties
 - c. Alternate comparisons made during the course of the preliminary design
 - d. Appropriate computations relating to the preliminary design
 - e. Soils report
 - f. Miscellaneous correspondence and information related to the project
 - g. Plan-In-Hand Report.

PHASE II PREPARATION OF CONSTRUCTION PLANS & SPECIFICATIONS

These Services should include, if needed for this project, but may not be limited to the following:

1. Description of Services. This scope of services describes the Engineering Services necessary for preparing the final construction plans, specifications, and cost estimates for the project.
2. Construction Plans and Specifications. The construction drawings and specifications shall be prepared to comply with the Nebraska Department of Roads Specifications for Highway Construction.
3. Right-of-Way. The necessary areas for right-of-way, acquisition, permanent and temporary easements and contractors' work area for construction of the project will be determined and tract drawings for each affected property owner will be furnished.
4. Public Meetings. A public informational meeting and a design presentation may be required as part of this project.
5. Contract Documents. Contract documents, including the necessary special provisions to supplement the specifications, shall be prepared.
6. Cost Estimates. Itemized cost estimate with unit prices shall be prepared for the entire project.

PROPOSAL REQUIREMENTS

At minimum, the proposal should include the following:

1. Letter of interest not to exceed two pages.
2. Organizational chart
3. Resumes of consultant personnel in responsible charge of the services to be provided
4. List of references and referrals.
5. Proof of professional liability insurance.
6. A list of similar work performed to include dollar value and name of responsible person monitoring the operation.
7. Outline of the proposed project schedule.
8. Describe and outline the Firm's approach to performing the work.
9. Nebraska Department of Roads DR Form 498 "Architect, Engineer and Related Services Questionnaire and Application Detail Supplement". Submitting firms must be certified with the Nebraska Department of Roads to do Environmental Studies.

SELECTION FACTORS

Maximum Points

- 30 Key staff assigned to project
 - Related experience
 - % of time key personnel are dedicated to the project
 - Location of key staff
- 15 Understanding of project and surrounding area
- 15 Response to RFP
- 5 Approach to public meetings
- 5 Ability to perform not only Phase One but also Phases Two and Three
- 10 Detailed breakdown of preliminary design and environmental assessment schedule
- 10 Estimate of time needed for preliminary design

OTHER INFORMATION

Price is not a selection factor and is not to be included in the consultant's proposal or mentioned during the interview. The price will be negotiated after the consultant is selected.

The method of payment for this project will be lump sum.

All information must be received by **4:00 p.m., ~~January 7~~ April 12, 2010**. To be considered for this project, firms should submit their proposals of interest along with DR Form 498 to:

Village of Pilger
Attention: SRTS PE Proposal
P.O. Box 306
220 N Main Street
Pilger, NE 68768

Direct your questions to the Village Clerk's Office at (402)396-3563 or pilger@cablone.net.